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VIA E-MAIL

Mr. Lawrence H. Norton, Esq.
General Counsel
Federal Election Commission
999 E Street, NW
Washington, DC 20463

Comments
AOR 2006-31

Re: AOR 2006 - 31

Dear Mr. Norton:

The undersigned serves as counsel to Santorum 2006, the principal authorized committee of Rick Santorum, Republican nominee for the United States Senate from Pennsylvania. We hereby submit the following comments to the above-referenced Advisory Opinion Request ("AOR") proffered by Bob Casey for Pennsylvania Committee ("Casey").

1. The Advisory Opinion process is not a proper forum for addressing the issue(s) raised in the AOR. Accordingly, the Commission should *not* answer the Casey question because it is not a proper AOR.

A request for an Advisory Opinion from the Federal Election Commission can *only* be based upon the application of the Federal Election Campaign Act of 1971, as amended ("FECA"), chapters 95 or 96 of the Internal Revenue Code of 1954 or any regulation prescribed by the Commission. See 2 U.S.C. §437f(a)(1), and 11 C.F.R. §112.1.

Here, Casey seeks the Commission's interpretation of provisions of the Federal Communications Act, specifically 47 U.S.C. §315(b)(2)(C). See page 5 of AOR 2006-31.

FECA further requires (as do Commission regulations) that an advisory opinion relate only to "a specific transaction or activity that the requesting person plans to undertake or is presently undertaking and intends to undertake in the future. Requests...regarding the activities of third parties, do not qualify as advisory opinion requests." See 11 C.F.R. §112.1(b). Here, Casey seeks the Commission's 'advice' as to the impact on him if a third party (a broadcast licensee) provides the LUC to him upon delivery of television ads with intentionally erroneous disclaimers

The 'advisory opinion' requested by Casey sets forth no actual facts which would qualify as an appropriate basis for an advisory opinion under FECA.

The AOR relies in its entirety on a set of facts related to a television spot recently produced and aired on various broadcast stations in Pennsylvania on behalf of Santorum 2006 ("the Santorum Ad") which allegedly contained a slightly erroneous disclaimer[1]. Santorum 2006 disputes the Casey campaign's characterization of the disclaimer(s) in the Santorum Ad.

Casey unsuccessfully demanded of all stations airing the Santorum Ad that Santorum 2006 be denied the Lowest Unit Charge ("LUC") for the duration of the 2006 election cycle. Casey admits on page 5 of the AOR in his 'Factual Background' that the basis and genesis of his AOR arises entirely from the Santorum Ad.

The entire 'factual record' attached to the AOR includes *not* a single fact related to the Casey campaign. All 'facts' are entirely related to third parties:

- The pages and pages of media buys / reserved airtime submitted by Casey do not, in fact, reflect *any* reservation of air time by the Casey campaign. Rather, the reservations of time submitted as support for the Casey AOR include only reservations or purchase of broadcast time by the Democratic Senate Campaign Committee ("DSCC").
- The other attachments of 'factual background' all refer to either Santorum 2006 or correspondence between Casey and KDKA regarding the Santorum Ad, together with the KDKA political advertising policy

Casey singles out a particular station, KDKA in Pittsburgh, in his AOR because of its written response(s) advising Casey of its preliminary and then final decision(s) regarding the Santorum Ad and the LUC. After initially determining that it would not provide LUC to Santorum 2006 the station subsequently concluded and advised Santorum 2006 that it had further considered and reviewed additional legal authority and that the broadcaster was *not* precluded from offering the LUC, in part, because the Santorum Ad substantially complied with the disclaimer requirements.

KDKA referenced in its second letter other provisions of law governing broadcasters such as the non-discrimination provisions and, further, that in reliance on FEC Advisory Opinion 2004-43, the continuation of the LUC to Santorum 2006 was not improper. The station further stated that it did not wish to be placed in the position of adjudicating disputes between candidates in enforcing an ambiguous statute in such a way that would inject the station into the political process. See September 15, 2006 letter from KDKA to Santorum 2006, attached to Casey AOR.

The determination by KDKA to rely on AO 2004-43 was well-placed under Commission regulations which provide that an advisory opinion rendered by the Commission under 11 CFR Part 112 may be relied upon by "...any person involved in any specific transaction or activity which is

[1] The ad's disclaimer had the required photo of the candidate at the beginning, rather than the end, of the Ad. The Santorum 2006 clearly complied with the requirements to 'stand by' the advertisement at issue.

indistinguishable in all its material aspects from the transaction or activity with respect to which such advisory opinion is rendered." See 11 C.F.R. §112.5(a)(2).

Casey, however, is disgruntled and dissatisfied with the broadcaster's response which failed to grant his wish that it disallow Santorum 2006 the LUC for the remainder of the 2006 election cycle. He now seeks to improperly utilize the advisory opinion process to obtain a result which is neither contemplated by nor appropriate for a Commission advisory opinion.

Casey's dissatisfaction with the station's decision regarding the Santorum Ad is not a justification for allowing him to misuse the Commission's only expedited procedure for his own political purposes.

To craft a purported 'immediate need', Casey has advised the Commission of his desire to create advertising that deliberately ignores the FCC disclaimer requirements and seeks the FEC's 'blessing' to do so. However, the Commission's advisory opinion process does not authorize an opinion to be rendered on provisions of law outside the jurisdiction of the Federal Election Commission nor should it be used to authorize knowing and willful disregard of any provision of law.

The Commission, in AO 2004-43, reviewed the identical question related to the FCC disclaimers and the availability of the LUC. Specifically, the question posed in AO 2004-43 was "whether, under ... FECA, a broadcaster would be making a corporate in-kind contribution by selling advertising time at the LUC to a candidate who ay failed to include a fully compliant Communications Act Statement in one of his advertisements." (citing 47 U.S.C. §315(b)).

The Commission concluded that the broadcaster's decision to offer the candidate the LUC under 'these circumstances' did *not* result in an in-kind contribution under FECA.

The Commission further advised that there was no violation of any disclaimer requirement "over which the Federal Election Commission has jurisdiction." See AO 2004-43

The Commission rightly concluded that it had no authority to enforce the provisions of Title 47 and noted that the FCC had failed to promulgate regulations under 47 U.S.C. §315(b). The FCC has had almost two years since AO 2004-43 was issued by the FEC to provide additional guidance to broadcasters on this subject but has failed to do so. Nothing has changed statutorily to now permit the Commission to opine on the FCC's area of authority.

Casey's request to the Commission for permission to deliberately violate the FCC disclaimer statutes is interesting but does not fall within the scope of authority for the Commission's advisory opinion procedures.

2. The Commission cannot – and should not—through the advisory opinion procedure overturn its well-established law on 'discounts', particularly in an area in which the market factors for rates and charges are outside the jurisdiction and expertise of the Federal Election Commission.

The Commission has for decades recognized that it is not an illegal corporate contribution for a commercial vendor to provide to political campaigns and candidates discounts offered to other customers in the ordinary course of the corporation's business.[2]

There is good reason for the Commission to abide by its own regulations governing jurisdiction for rendering advisory opinions, namely, to insure that the Commission is not promulgating or offering opinions on subject areas outside the scope of the Commission's expertise. Here, the Commission is being asked to make a determination about pricing of television broadcast rates with *no* factual basis about the structure of rates, the availability of various types of rates, the ratemaking process, how rates are determined by broadcasters, and so forth. The AOR *presumes* (incorrectly) that there are "two rates" – the lowest unit charge and another rate which is higher than the lowest one.

The provisions of the Federal Communications Act cited in the AOR (47 U.S.C. §315(b)(2)(C)) do not state that failure to follow the exact specifications of the 'stand by your ad' provisions require a broadcaster to thereafter *deny* the LUC. Rather, the statute clearly states that "...such candidate shall not be *entitled* to receive the [LUC]...".

If Congress intended for the LUC to be unavailable or prohibited to any political candidate (even if the candidate substantially complies with the disclaimer provisions), Congress could and should have said that.

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[2] AO 1994-10, permitting discounted banking fees (" In the past, the Commission has concluded that the receipt of complimentary items or the purchase of goods or services at a discount does not result in a contribution if the discounted or complimentary goods were available to others on equal terms or as part of a pre-existing business relationship. See Advisory Opinions 1992-24, 1989-14 and 1987-24"); AO 1988-25 ("Other opinions have similarly allowed corporations to give volume discounts or rebates to candidates for Federal office who purchase the corporate vendors' services or goods if those discounts or rebates are offered in the ordinary course of the corporation's business to non-political customers or clients, and if offered on the same terms and conditions to the candidate or political committee. Advisory Opinions 1986-22, 1985-28, 1982-30, and 1976-86. Applying the usual and normal charge standard to a corporations offer of a reduced billboard advertising rate to a Federal candidate's campaign committee, the Commission concluded in Advisory Opinion 1978-45 that the discounted rate would represent a prohibited corporate contribution. The Commission reasoned that because this rate was not routinely offered in the ordinary course of business to the corporation's commercial customers, it could not be offered to the Federal candidate"). AO 1986-22 permitted a broadcaster to offer incentive(s) and discount(s) on the price of broadcast airtime to political candidates who accepted the station's offer to advance purchase airtime.

However, the statute does not say that: rather, the remedy for failure to incorporate the "stand by your ad" provisions is that a candidate is not 'entitled' to LUC. Nowhere does the statute mandate denial of a particular rate or charge, nor has the FCC indicated through any formal or binding legal authority or guidance that a station is precluded or prohibited from offering the LUC under those circumstances. As with any statutory or regulatory framework, §315(b) is not the only part of Title 47 that must be considered, as broadcasters have noted in interpreting this provision.

Such was the response of the Missouri Broadcasters Association in a similar situation involving another US Senate campaign and another similar "stand by your ad" disclaimer issue August, 2006.

In that situation, it was the Democratic US Senate nominee, Claire McCaskill, who failed to abide by the 'stand by your ad' provisions by failing to include in a radio spot the office she is seeking and failing to file a proper notice with the station that her ad reference(d) her opponent, both of which are required by 47 U.S.C. §315(b).

Counsel to the Missouri broadcasters, Gregg Skall, determined that the 'opposing candidate' was not the Republican candidate during the period preceding the primary election (an odd conclusion since the McCaskill advertisement attacked the Republican candidate, Sen. Talent by name). Relevant for these purposes, however, was his conclusion that if the applicable candidate(s) and time period *had* been in force, the denial of the LUC was nonetheless optional with the broadcaster and was/is not mandated by federal law. Mr. Skall stated in his memorandum to the Missouri Broadcasters Association:

> "As a practical matter, the Federal Election Commission, in prior rulings, has indicated that the loss of LUC entitlement is not binding upon broadcast stations, and the FCC has not spoken to this issue. In other words, the candidate that violates the disclaimer provisions of the Act loses the entitlement to the lowest unit charge. However, any station that continues to provide advertising to the candidate at lowest unit charge does not violate of the Act, provided they do not discriminate among all candidates.
>
> Further, please be aware that, because it is the FCC that oversees and has jurisdiction with regard to LUC, any candidate who is denied access to LUC, on the basis of a violation of the Campaign Reform Act, could file a complaint with the FCC." See Summary from Missouri Broadcasters Association, August 30, 2006, based on Memorandum from Gregg Skall, Counsel to Missouri Broadcasters Association. (Summary attached)

The Federal Election Commission has previously noted the complexities of the statutes governing broadcast licensees and the rates charged to political candidates.

In FEC Advisory Opinion 1998-17, the Commission sought and received guidance from the General Counsel to the Federal Communications Commission ("FCC") regarding two key provisions of the Communications Act in order to ascertain whether a station providing *free* air time to candidates would violate the prohibitions of 2 U.S.C. §441b.

Congress, in enacting the Bipartisan Campaign Reform Act of 2002 ("BCRA") and amending Section 315(b) to add the "stand by your ad" disclaimer provision(s), did not repeal *other* provisions of the Communications Act. Specifically, Congress did not repeal §312(a)(7) of the Communications Act, the "reasonable access" rule, which was enacted in 1972 as part of FECA and which mandates 'non-discrimination' by broadcast licensees among advertisers. "The 'reasonable access' rule directs the FCC to revoke a broadcaster's license "for willful or repeated failure to allow reasonable access to or permit purchase of reasonable amounts of time" by Federal candidates. Congress added these provisions for a twofold purpose: first, to give candidates "greater access to the media so that they may better explain their stand on the issues, and thereby more fully and completely inform the voters"; secondly, "to halt the spiraling cost of campaigning for public office." S. Rep. No. 92-96, 92d Cong., 1st Sess. 20 (1971)". See FEC AO 1998-17

Because Congress did not repeal the 'reasonable access' requirements of the Communications Act when adding the 'stand by your ad' language of §315(b), it is reasonable for a broadcast licensee to presume that the 'stand by your ad' language must be interpreted in tandem with pre-existing law.

And as FCC Counsel advised the Commission at the time of the Commission's consideration of AO 1998-17, "due to the complexity of broadcasting and cable advertising practices, the calculation of the lowest unit charge may be difficult, and has led to complaints by candidates that they were charged more than the lowest unit charge. ....FCC regulations permit a station to establish a special discount rate to sell time to candidates which is even lower than the lowest unit charge."

To properly decide the Casey AOR requires information and expertise that is wholly lacking at the Federal Election Commission and is certainly not available in this abbreviated time period. The AOR is sought by Casey to further the immediate political objectives of his current campaign for the US Senate but is not permissible under the Commission's statutory authority nor is it appropriate to allow a truncated process on an issue of this magnitude that could impact so many, most of whom are no doubt unaware of the pending Casey AOR.

There is no expertise at the FEC regarding broadcast advertising rates. It is the reason that the FEC is precluded by law from rendering advisory opinions interpreting statutes other than FECA and its regulations thereunder. The Commission lacks both the expertise and jurisdiction to render opinions involving statutes within the jurisdiction of other agencies. No statutory expansion of the Commission's advisory opinion authority to interpret provisions of the Communications Act was included in BCRA.

If Casey desires to deliberately disregard the FCC disclaimer requirements, he should not be 'blessed' in that endeavor by the Commission through an inappropriate and illegal advisory opinion request.

Any such knowing and willful disregard of any portion of law by Casey should be met with the sternest review of all the facts and circumstances by the appropriate agency, in a proper enforcement action. Such an enforcement proceeding would incorporate an intensive factual inquiry regarding all the available rates, ratemaking, discounts, and internal procedures of a broadcast licensee applicable to the situation – which facts are wholly lacking in this pseudo- advisory opinion request.

Conclusion

The Commission should dismiss the Casey AOR for the reason that it is outside the parameters of the Commission's jurisdiction for rendering advisory opinions as set forth in detail above.

Sincerely,

/s/ Cleta Mitchell

Cleta Mitchell, Esq.
Counsel to Santorum 2006

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MEMORANDUM

TO: Don Hicks
President, Missouri Broadcasters Association

FROM: Gregg P. Skall

DATE: August 30, 2006

RE: McCaskill for US Senate Lowest Unit Rate Issue

You have provided me with the memorandum of Cleta Mitchell, Foley & Lardner, LLP and Counsel for Talent for Senate, Inc. dated August 14, 2006 (the "Mitchell Memo"). The Mitchell Memo attached letters to specific Missouri broadcasters, also dated August 14, 2006, each of which asserts that certain advertisements aired on radio broadcasting stations in Missouri, produced and paid for by Claire McCaskill and her campaign committee, Clair McCaskill for US Senate, failed to comply with US law for several reasons.

The script of the advertisement confirms that the advertisement references Ms. McCaskill's opponent in the general election, Sen. Jim Talent. As a result, the Mitchell Memo asserts that certain provisions of Section 315(b) of the Communications Act apply and were not adhered to:

- The campaign failed to submit to the radio stations the legally required documentation attesting that the advertisement is a political advertisement that referenced Ms. McCaskill's opponent, Sen. Talent.

- The advertisement failed to contain in the disclaimer—generally referred to as "stand-by-your-ad"—a statement by Ms. McCaskill identifying the office she is seeking.

The Mitchell Memo and the other letters assert that, for the McCaskill campaign to qualify for the lowest unit charge ("LUC"), she must provide that station with a written certification that she will not make a direct reference to another candidate for the same office, unless such reference includes a personal audio statement by the candidate that:

1) Identifies the candidate,

2) Identifies the office the candidate is seeking, and

3) Indicates that the candidate has approved the broadcast.[1]

A review of the questioned McCaskill advertisements reveals compliance with items one and three. The ad, however, failed to mention the office Claire McCaskill was seeking. In the absence of other factors, the failure to include this required component would result in McCaskill's loss of the entitlement to LUC for the balance of both the primary and the general election campaign.[2]

I. WERE THE McCASKILL ADS OF THE TYPE THAT REQUIRE COMPLIANCE WITH SECTION 315(b) AND WOULD PRECLUDE McCASKILL FROM LUC ENTITLEMENT WITHOUT COMPLIANCE?

Several questions are raised. First, Section 315(b)(2)(B) refers to ". . . **such** broadcast or any other broadcast during any portion of the 45-day and 60-day periods." Thus if all the advertisements in question were aired outside of those LUC windows, they would not be **such** broadcasts, and would not cause a disqualification of the candidate for LUC. In other words, *if the violation occurred outside the election window for lowest unit charge, there is no basis to claim that the McCaskill for Missouri committee forfeited its right to receive lowest unit charge.*

The Missouri primary was August 8 and the General Election will be November 7, 2006. Accordingly, the LUC period for the primary began on June 24, and the LUC period for the general election begins on September 8, 2006. To be **such** a broadcast, for purposes of §315, one or more of them must fall between the dates of June 24 – August 8, or September 8 – November 8, as represented in the chart below.

	Missouri Primary	General Election
LUC Begins	June 24	September 8
LUC Ends	August 8	November 7

The Mitchell Memo attached radio broadcast orders that are not fully legible. However, all appear to request flight dates outside the primary LUC windows, except for one. The exception seems to request a flight date beginning on August 8 and running through August 20 and attaches copy that does indeed omit identification of the office she is seeking. Thus, at least one of the

[1] 47 U.S.C. §315(b)(2)(A) and (D)

[2] 47 U.S.C. §315(b)(2)(B) Limitation on Charges. -- If a candidate for Federal office (or any authorized committee of such candidate) makes a reference described in subparagraph (A) in any broadcast that does not meet the requirements of subparagraph (C) or (D), such candidate shall not be entitled to receive the rate under paragraph (1)(A) **for such broadcast or any other broadcast during any portion of the 45-day and 60-day periods** described in paragraph (1)(A), that occur on or after the date of such broadcast, for election to such office. (Emphasis Added)

ads appears to fall within the LUC window and makes it an ad referred to as **such broadcast or any other broadcast during any portion of the 45-day and 60-day period**.

II. WHO MUST BE REFERENCED IN THE ADVERTISEMENT TO INVOKE THE REQUIRED STAND-BY-YOUR-AD STATEMENT PROVISIONS?

Section 315(b)(2)(A) requires a written certification that the candidate will not make any direct reference **to another candidate for the same office** unless that broadcast complies with the radio or television stand-by-your-ad requirements of subparagraphs (C) or (D); it is (D) that requires the candidate to identify in a radio broadcast the office being sought. The consequence of failing to comply with any of these provisions is that the candidate loses the entitlement to LUC.[3]

The key question is: **who is a candidate for the same office?** Since Section 315 is a provision of the Communications Act, we can seek guidance from prior FCC decisions and statements regarding this question. Under Section 315(a) (which covers equal opportunities), whenever a legally qualified candidate for any public office is allowed to use a broadcasting station, the licensee of that station must afford equal opportunities to all other such ". . . candidates for **that office**." Since the term "same office" is grammatically interchangeable with "that office," how the FCC interprets Section 315(a) should guide us with respect to interpretation of Section 315(b). The *Womble Carlyle Political Manual* states:

> Rights to equal opportunities vest only in legally qualified opposing candidates. In order for candidates to be "opposing candidates" the same elective office must be involved. At a nominating convention or in a primary election, the opposing candidate would normally be from the same party, unless some type of coalition party is involved. Thus, a Republican seeking election in a Republican primary would not be an opposing candidate to a Democrat seeking election in a Democratic primary, but only to another candidate in the Republican primary. If a candidate is running unopposed in his or her party's primary, then there would be no opposing candidate entitled to equal opportunities. Upon nomination, of course, equal opportunities would then accrue in favor of an opposing party's nominee for the same public office.[4]

McCaskill was running unopposed in the Democratic Primary and, therefore, there was no opposing candidate. Since there was no opposing candidate, there could not have been "another candidate" for the same office for purposes of the LUC provisions.

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[3] 47 U.S.C. §315(b)(2)(A)

[4] This statement is based on the FCC's Political Primer 100 FCC 2d 1476, 1984 FCC LEXIS 2934, (January 1, 1984) at the discussion beginning at paragraph 29 and the case of *Kay v. FCC*. 443 F.2d 638, 645 (D.C. Cir. 1970) equating candidates for "that office" to "opposing candidates." If candidates for "that office" are equal to "opposing candidates" for purposes of one provision of §315, then so should candidates for the "same office" be interpreted under the Commission and Court rulings for "Opposing Candidates."

The Commission has long held that, while both primary and general elections fall within the scope of Section 315, such elections must be considered independently of each other, and equal opportunities, within the meaning of Section 315, need be afforded only to legally qualified candidates for the same office in the same election.[5]

Therefore, it is reasonable to conclude that McCaskill's references to Senator Talent were not references to an opposing candidate for the Missouri primary election, and were not references to "another candidate" under Section 315(b). Accordingly, the McCaskill campaign has not lost its entitlement to LUC in the primary or the general election LUC period.

III. WERE McCASKILL TO HAVE VIOLATED SECTION 315(b), MUST SHE BE DENIED LUC?

Upon a violation of the stand-by-your-ad provision, the candidate is no longer "entitled" to receive lowest unit charge. It has long been the position of the Missouri Broadcasters Association that this consequence disenfranchises the offending candidate from insisting on LUC as an entitlement, but does not disallow or prevent the broadcaster from voluntarily charging that candidate the LUC, provided that there is no discrimination among candidates for elective office. This position has not been held invalid in any legal forum. A consequence of the nondiscrimination requirement is that if a broadcaster continues to provide LUC to a candidate who has lost his or her entitlement, then the broadcaster must continue to provide LUC to **all** candidates who have lost their entitlements in that election period and who make a "use" of its station.

[5] Id. at ¶30

Section 315 [47 USC §315]. Facilities for Candidates for Public Office

(a) If any licensee shall permit any person who is a legally qualified candidate for any public office to use a broadcasting station, he shall afford equal opportunities to all other such candidates for that office in the use of such broadcasting station: Provided, that such licensee shall have no power of censorship over the material broadcast under the provisions of this section. No obligation is imposed under this subsection upon any licensee to allow the use of its station by any such candidate. Appearance by a legally qualified candidate on any --

(1) bona fide newscast,

(2) bona fide news interview,

(3) bona fide news documentary (if the appearance of the candidate is incidental to the presentation of the subject or subjects covered by the news documentary), or

(4) on-the-spot coverage of bona fide news events (including but not limited to political conventions and activities incidental thereto), shall not be deemed to be use of a broadcasting station within the meaning of this subsection. Nothing in the foregoing sentence shall be construed as relieving broadcasters, in connection with the presentation of newscasts, news interviews, news documentaries, and on-the-spot coverage of news events, from the obligation imposed upon them under this Act to operate in the public interest and to afford reasonable opportunity for the discussion of conflicting views on issues of public importance.

(b) Charges. --

(1) In general. -- The charges made for the use of any broadcasting station by any person who is a legally qualified candidate for any public office in connection with his campaign for nomination for election, or election, to such office shall not exceed --

(A) subject to paragraph (2), during the forty-five days preceding the date of a primary or primary runoff election and during the sixty days preceding the date of a general or special election in which such person is a candidate, the lowest unit charge of the station for the same class and amount of time for the same period; and

(B) at any other time, the charges made for comparable use of such station by other users thereof.

(2) Content of Broadcasts-

(A) In General. -- In the case of a candidate for Federal office, such candidate shall not be entitled to receive the rate under paragraph (1)(A) for the use of any broadcasting station unless the candidate provides written certification to the broadcast station that the candidate (and any authorized committee of the candidate) shall not make any direct reference to another candidate for the same office, in any broadcast using the rights and conditions of access under this Act, unless such reference meets the requirements of subparagraph (C) or (D).

(B) Limitation on Charges. -- If a candidate for Federal office (or any authorized committee of such candidate) makes a reference described in subparagraph (A) in any broadcast that does not meet the requirements of subparagraph (C) or (D), such candidate shall not be entitled to receive the rate under paragraph (1)(A) for such broadcast or any other broadcast during any portion of the 45-day and 60-day periods described in paragraph (1)(A), that occur on or after the date of such broadcast, for election to such office.

(C) Television Broadcasts. -- A candidate meets the requirements of this subparagraph if, in the case of a television broadcast, at the end of such broadcast there appears simultaneously, for a period no less than 4 seconds--

(i) a clearly identifiable photographic or similar image of the candidate; and

(ii) a clearly readable printed statement, identifying the candidate and stating that the candidate has approved the broadcast and that the candidate's authorized committee paid for the broadcast.

(D) Radio Broadcasts. -- A candidate meets the requirements of this subparagraph if, in the case of a radio broadcast, the broadcast includes a personal audio statement by the candidate that identifies the candidate, the office the candidate is seeking, and indicates that the candidate has approved the broadcast.

(E) Certification. -- Certifications under this section shall be provided and certified as accurate by the candidate (or any authorized committee of the candidate) at the time of purchase.

(F) Definitions. -- For purposes of this paragraph, the terms "authorized committee" and "Federal office" have the meanings given such terms by Section 301 of the Federal Election Campaign Act of 1971 (2 USC 431).

(c) For the purposes of this section:

(1) The term "broadcasting station" includes a community antenna television system; and

(2) The terms "licensee" and "station licensee" when used with respect to a community antenna television system, mean the operator of such system.

(d) The Commission shall prescribe appropriate rules and regulations to carry out the provisions of this section.

(e) Political Record. --

(1) In General. -- A licensee shall maintain, and make available for public inspection, a complete record of a request to purchase broadcast time that--

(A) is made by or on behalf of a legally qualified candidate for public office; or

(B) communicates a message relating to any political matter of national importance, including--

(i) a legally qualified candidate;

(ii) any election to Federal office; or

(iii) a national legislative issue of public importance.

(2) Contents of Record. -- A record maintained under paragraph (1) shall contain information regarding--

(A) whether the request to purchase broadcast time is accepted or rejected by the licensee;

(B) the rate charged for the broadcast time;

(C) the date and time on which the communication is aired;

(D) the class of time that is purchased;

(E) the name of the candidate to which the communication refers and the office to which the candidate is seeking election, the election to which the communication refers, or the issue to which the communication refers (as applicable);

(F) in the case of a request made by, or on behalf of, a candidate, the name of the candidate, the authorized committee of the candidate, and the treasurer of such committee; and

(G) in the case of any other request, the name of the person purchasing the time, the name, address, and phone number of a contact person for such person, and a list of the chief executive officers or members of the executive committee or of the board of directors of such person.

(3) Time to Maintain File. -- The information required under this subsection shall be placed in a political file as soon as possible and shall be retained by the licensee for a period of not less than 2 years.